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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,162	01/18/2002	Jun-ichi Yamato	ND-415US	7609

7590 11/21/2007  
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EXAMINER
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BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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11/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/050,162	<b>Applicant(s)</b> YAMATO ET AL.	
	<b>Examiner</b> Reuben M. Brown	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2,4 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4 and 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 5/29/2007 have been fully considered but they are not persuasive. Applicant argues on page 6 that Lawler does not teach storing privacy data. However, examiner points out that Aras (col. 2, lines 44-58) is relied upon for the instant claimed feature. Applicant also argues on page 6 that Aras does not teach or suggest a server sending a user-specific guide or storing reservations. Again, it is pointed out that Lawler (col. 10, lines 35-50) teaches that claimed features.

Lawler is directed to an interactive system that allows a subscriber to reserve a recording of a broadcast program, such that the recording may be stored locally or at a server, col. 10, lines 24-45 & col. 14, lines 21-36. Even though Lawler goes on to teach that the system may use a customer's viewing habits to generate a personalized program guide, the reference does not teach that the user may have the option to not have private information transmitted to a third party entity. However, Aras provides the feature. It would have been obvious for one of ordinary skill in the art to modify Lawler, with Aras for the well know advantageous of a subscriber maintaining private information that may be collected by the subscriber terminal.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2, 4 & 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler, (U.S. Pat # 5,69,107), in view of Aras, (U.S. Pat # 5,872,588).

Considering claim 2, the claimed program processing system for executing a program process using an EPG, comprising;

‘a communication network’, reads on Lawler, col. 4, lines 1-35.

‘a program processing apparatus for executing a program process, such that the apparatus has a database for storing program reservation data identifying a reservation of a particular externally broadcast programs for recording’, reads on the interactive controller 18, which includes a CPU 58 that directs memory 60 to store EPG data (col. 9, lines 49-55). Also Lawler states that the system will allow the subscriber to Activate the Record button to record programming locally at the controller 18, which reads on the claimed reservation data; col. 10, lines 26-67.

‘means for preparing program condition based, at least in part on the reservation data, reads on the system in Lawler that determines if a program has already been selected for recording by the subscriber, when the Remind button is activated, col. 13, lines 5-65. Lawler also teaches that once a Record button is selected for a program, the system monitors the user’s selection and determines whether the user has previously requested recording of the program, which reads on ‘condition data’.

‘means for receiving and storing privacy level data having at least a first value and a second value’, even though Lawler teaches that a subscriber may receive personalized EPG, based on their viewing habits, it does not teach the claimed privacy level data. Nevertheless, Aras teaches that a viewer may set a privacy level on whether private information is transmitted to a server, col. 22, lines 30-52. It would have been obvious for one of ordinary skill in the art, at the time the invention was made, to modify Lawler with the feature of a privacy switch, for the desirable improvement of allowing the subscriber to control which of their private data is transmitted to a third party entity.

Since Aras teaches that the subscriber may set the Privacy level to ON, then the system necessarily comprises at least two levels, i.e., ON & OFF.

‘means for transmitting the privacy level data, also reads on Aras, col. 22, lines 51-54.

‘means for transmitting based on the privacy level data, the program condition data through the network, reads on the combination of Lawler & Aras, since the combination

would teach one to prohibit the transmission of certain information associated with a subscriber, at least for the benefit of the subscriber maintaining a certain level of privacy, as taught by Aras.

‘an EPG preparation server, connected to the communication network for preparing EPG data is met by the EPG data server 34. Lawler, col. 4, lines 35-67.

‘wherein the EPG preparation server includes a reception means for receiving the privacy level data and condition data through the communication network, also reads on the combination of references, since the condition data in Lawler is transmitted upstream to the server, and is used to generate certain items on the subscriber’s EPG, whereas Aras teaches that the subscriber is enabled to determine the level of information concerning their viewing and selection behavior that is transmitted to the server.

‘means for preparing the EPG including a display for showing the reservation status of the externally broadcast program based on the received condition data and transmission means for transmitting the EPG to the program processing apparatus’, reads on the discussion in Lawler that icons can be set to at least indicate whether a program has been set for reminder/recording, see col. 8, lines 24-40. As for the ‘transmission’, Lawler states that the EPG displayed at the video display 20 may be generated from the interactive controller 18, or headend 12, see col. 7, lines 5-16. Furthermore, Lawler teaches throughout that EPG programming data is transmitted from the headend to the controller

Art Unit: 2623

18, for display on the TV 20, col. 3, lines 64-67. It is also disclosed that the reminder/record menu option is operated as a two-way communication, controlled at the headed, col. 10, lines 55-67; col. 12, lines 15-21; col. 13, lines 62-67.

‘wherein the program processing apparatus includes means for displaying the EPG’ reads on the video display 20, (Fig. 1; Fig. 2; col. 5, lines 58-67).

Considering claims 4, 15 & 16, ‘wherein a monetary consideration, which differs depending upon the privacy level data sent from the program processing apparatus is imposed for the EPG’, reads on the disclosure in Aras that “a content provider may encourage the use of behavior collection by providing different usage fees based on the enablement or disablement of the behavior collection”, see col. 22, lines 45-60. Thus subscribers can optionally enable/disable their behavior to be collected and/or transmitted, wherein a content provider may provide a monetary incentive for the instant subscriber to enable behavior collection/transmission.

Considering claim 13, the claimed ‘means for recording externally broadcast programs’, reads on the VCR, Lawler, col. 5, lines 35-45. ‘a recorded database for storing information identifying externally broadcast programs that have been recorded, and means for preparing a program condition prepares the program condition based on the information stored on the recorded program database’, is met by the disclosure in Lawler that the user is presented with a menu option that allows the user to determine if a program was already recorded by the user and/or if it is available for recording, see col. 14, lines 8-20.

Considering claim 14, the claimed program processing system, 'wherein the program processing apparatus further includes, 'a program playback section for retrieving and playing externally broadcast programs stored in the recorded program database', is inherent in Lawler, which discloses a VCR for storing broadcast programs locally, col. 10, lines 30-45.

'input means for receiving user commands relating to the EPG displayed by the means for displaying the EPG, and operating instruction section for controlling the playback section based on the EPG', reads on the operation of the CPU 58, col. 9, lines 49-67 thru col. 10, lines 1-15; col. 11, lines 21-45.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



Art Unit: 2623

**Any response to this action should be mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**


(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown

  
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